



Department of Fair Employment & Housing Fair Employment and Housing Council

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FAIR EMPLOYMENT AND HOUSING COUNCIL

Meeting of December 4, 2020

Minutes

Remote Meeting

Councilmembers Present

Chaya Mandelbaum, Chairperson
Dale Brodsky, Councilmember
Tim Iglesias, Councilmember
Gabriel Sandoval, Councilmember
Dara Schur, Councilmember
Kevin Kish, DFEH Director and Ex Officio member

DFEH Staff Present

Adam Romero, DFEH Deputy Director of Executive Programs
Kara Brodfuehrer, DFEH Legislative and Regulatory Counsel

Others Present

About 34 members of the public.

I. Call to Order and Roll Call

Chair Mandelbaum welcomed guests to the FEH Council's 41st meeting and called it to order. He then turned the meeting over to Senior DFEH Legislative and Regulatory Counsel, Kara Brodfuehrer, who conducted roll call.

II. Welcome and Introduction of Guests

Chair Mandelbaum announced that the Council meeting would be livestreamed on the Council's website via Zoom and that the recording will be available later on the Council's website and YouTube channel. The public can participate in the meeting by emailing the Council or using Zoom chat or using the "Raise Hand" function and can find the Attachments to the Agenda on the website.

Chair Mandelbaum then acknowledged Department leaders and members, including: Adam Romero, DFEH Deputy Director of Executive Programs; and Kara Brodfuehrer, Senior DFEH Legislative and Regulatory Counsel.

III. Review of the Agenda

Chair Mandelbaum reviewed the agenda for the meeting, which included:

- Consideration of Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate Related Practices; and Disability
- Consideration of Request for Public Input Regarding Reasonable Accommodations for Associational Disabilities Under the Fair Employment and Housing Act
- Updates from the Council's other subcommittees

IV. Approval of the Minutes

Attachment A: Minutes from October 26, 2020 Meeting of the Fair Employment and Housing Council

Chair Mandelbaum reviewed the minutes of the October 26, 2020 meeting. During that meeting, the Council considered and voted to finalize Unmodified Text of Employment Regulations Regarding Harassment Prevention Training; and heard updates from the Council's other subcommittees. Chair Mandelbaum asked for public comments on the minutes, and receiving none, the Council voted to approve the minutes unanimously.

V. Councilmembers' Reports

Chair Chaya Mandelbaum and Councilmembers

Councilmember Brodsky reported that she and Branden Butler, DFEH Assistant Deputy Director of Education and Outreach, attended the Hate Action Committee Meeting on October 28. She also noted that November 30 – December 6 is United Against Hate week.

Councilmember Schur stated that the Los Angeles Times did a study of ordinances that penalize individuals with a criminal history and found such ordinances in 140 cities, most of which have rising Black populations.

Chair Mandelbaum announced that he'll be stepping down from his role at the Council at the end of his term.

VI. Department of Fair Employment and Housing Report

Kevin Kish, Director, Department of Fair Employment and Housing

Director Kish noted that the Department is preparing to implement legislation expanding the California Family Rights Act (CFRA), which goes into effect January 1, 2021. He further noted that a new educational factsheet regarding the CFRA changes is available now on the Department's website and updated materials and website content will be available January 1. Director Kish also stated that the Department is implementing SB 973, including developing an online portal for large employers to submit employment data required by that law. Lastly, he reminded employers that December is the last month to comply with the sexual harassment and abusive conduct prevention training deadline, and that DFEH offers free, online trainings in six languages that meet the legal requirement.

VII. Consideration of Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate Related Practices; and Disability

Councilmembers Dara Schur and Tim Iglesias

Attachment B: Modified Text of Proposed Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability

A. Discussion by Council

Councilmember Schur and Councilmember Iglesias presented the modifications to the regulations since the last Council meeting as a result of public comment.

Councilmember Brodsky suggested adding some clarification to section 12180 regarding the distinction between the responsibilities of subsidized versus unsubsidized housing providers to grant reasonable accommodations and modifications. Councilmember Schur noted that she would like feedback on the proposed regulations as to potential defenses for facially discriminatory policies on page 11 subsection d. Councilmembers also suggested a number of additional structural and line-edit modifications.

B. Public Comment

Whitney Prout, California Apartment Association: Ms. Prout thanked the Council for the work on the regulations and noted that the California Apartment Association has concerns that they will submit during the next comment period.

C. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment B, as amended during the meeting, and initiate a 15-day comment period.

VIII. Consideration of Request for Public Input Regarding Reasonable Accommodations for Associational Disabilities Under the Fair Employment and Housing Act

Chair Chaya Mandelbaum and Councilmember Dale Brodsky

Attachment C: Text of Proposed Request for Public Input Regarding Reasonable Accommodations for Associational Disabilities Under the Fair Employment and Housing Act

A. Discussion by Council

Councilmember Brodsky reported that the subcommittee developed a request for public input regarding whether an employer has a duty to engage in an interactive process with and provide reasonable accommodation for an employee who is associated with a person who has, or is perceived to have, a disability. She further noted that, under the draft, public input would be received until February 1, 2021, after which the subcommittee will discuss the results with the Council and determine whether to move forward with regulations. The public can submit input to fehCouncil@dfeh.ca.gov.

B. Public Comment

Genavina Mabary: Ms. Mabary submitted a Zoom comment asking if the subcommittee is seeking legal or employer input.

Chair Mandelbaum responded that the subcommittee would value legal or employer input on the topic.

A. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment C and authorize the Department to disseminate it to the public.

IX. Update from Criminal History & Employment Hearing Subcommittee

Chair Chaya Mandelbaum and Councilmember Gabriel Sandoval

A. Discussion by Council

Councilmember Sandoval reported that the Criminal History and Employment Hearing produced useful feedback on ways to revise the law surrounding criminal history in employment.

Chair Mandelbaum agreed that the subcommittee will explore implementing suggestions raised during the hearing.

Councilmember Brodsky added that Legal Services for Prisoners with Children has been holding webinars regarding Ban-the-Box and criminal history topics.

B. Public Comment

None.

X. Update from Criminal History & Work Opportunity Tax Credit Subcommittee

Councilmember Gabriel Sandoval

A. Discussion by Council

Councilmember Sandoval reported that the subcommittee has completed a draft of the regulations and is considering whether it would be useful to combine it with the Criminal History & Employment Hearing Subcommittee, especially given that now, Judge Ortiz, is no longer on the Council.

B. Public Comment

None.

XI. Update from Government Code Section 11135 Regulations Subcommittee

Councilmembers Dale Brodsky and Dara Schur

A. Discussion by Council

Councilmember Schur reported that the notice package is currently under review by the California Business, Consumer Services and Housing Agency.

B. Public Comment

None.

XII. Update from the Hate Violence Hearing Subcommittee

Councilmember Dale Brodsky

A. Discussion by Council

Councilmember Brodsky noted that the subcommittee may have more to report by the next Council meeting.

Councilmember Schur expressed that she thought it was a successful hearing.

B. Public Comment

None.

XIII. Discussion Regarding Additional Subcommittee Assignments

Chair Chaya Mandelbaum and Councilmembers

A. Discussion by Council

Councilmember Sandoval suggested waiting for the next meeting to add a new member to the Criminal History & Work Opportunity Tax Credit Subcommittee. He also volunteered to join the Hate Violence Hearing Subcommittee.

B. Public Comment

None.

C. Action by Council

The Council moved, seconded, and unanimously voted to approve a motion to adopt the subcommittee assignment.

XIV. Further Public Comment

Mark Murray, California Teachers Association: Mr. Murray emailed the Council regarding the Request for Public Input Regarding Reasonable Accommodations for Associational Disabilities Under the Fair Employment and Housing Act. He recommended that individuals associated with a person who has an autoimmune disease be eligible for reasonable accommodation at their workplace, as the individual associated with them is susceptible to illness by that association.

Chair Mandelbaum noted that this example is a reason why this is a topical issue in addition to a legal one.

Councilmember Brodsky added that this is already a topical issue in some districts and some are already engaging in the interactive process as a result.

XV. Adjournment

Chair Mandelbaum adjourned the meeting at approximately 2:43 PM.

Date: December 15, 2020

CHAYA MANDELBAUM
Chair

RENEE RONDINONE
DFEH Outreach and Education Specialist